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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

WILLIAM BROWN,

Petitioner,

v.

MATTHEW CATE, et al.,

Respondents.

CASE NO. 09-CV-2058 W (PCL)

ORDER:

**(1) ADOPTING REPORT AND
RECOMMENDATION
(DOC. NO. 11.)**

**(2) GRANTING MOTION TO
DISMISS (DOC. NO. 5.)**

On September 18, 2009, Petitioner William Brown (“Petitioner”), a state prisoner proceeding *pro se*, filed this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. (Doc. No. 1.) Petitioner challenges his 1997 conviction for voluntary manslaughter and assault with a deadly weapon. (Doc. No. 11 at 2.)

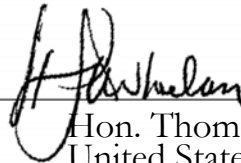
On April 23, 2010, Magistrate Judge Peter C. Lewis issued a Report and Recommendation (“Report”), recommending that the Court grant the pending motion to dismiss the Petition. The Report also ordered that any objections were to be filed by May 7, 2010. (*Report* at 6.) To date, no objection has been filed, nor has there been a request for additional time in which to file an objection.

1 A district court's duties concerning a magistrate judge's report and recommendation
 2 and a respondent's objections thereto are set forth in Rule 72(b) of the Federal Rules of
 3 Civil Procedure and 28 U.S.C. § 636(b)(1). When no objections are filed, the district court
 4 is not required to review the magistrate judge's report and recommendation. See United
 5 States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003)(holding that 28 U.S.C.
 6 636(b)(1)(c) "makes it clear that the district judge must review the magistrate judge's
 7 findings and recommendations de novo *if objection is made*, but not otherwise")(emphasis in
 8 original); Schmidt v. Johnstone, 263 F. Supp. 2d 1219, 1226 (D. Arizona 2003) (concluding
 9 that where no objections were filed, the District Court had no obligation to review the
 10 magistrate judge's Report). This rule of law is well established within the Ninth Circuit and
 11 this district. See Wang v. Masaitis, 416 F.3d 992, 1000 n. 13 (9th Cir. 2005)("Of course,
 12 de novo review of a R & R is **only** required when an objection is made to the R &
 13 R.")(emphasis added)(citing Reyna-Tapia, 328 F.3d 1121); Nelson v. Giurbino, 395 F.
 14 Supp. 2d 946, 949 (S.D. Cal. 2005) (Lorenz, J.) (adopted Report without review because
 15 neither party filed objections to the Report despite the opportunity to do so, "accordingly,
 16 the Court will adopt the Report and Recommendation in its entirety."); see also Nichols
 17 v. Logan, 355 F. Supp. 2d 1155, 1157 (S.D. Cal. 2004) (Benitez, J.).

18 The Court, therefore, accepts Judge Lewis' recommendation, and **ADOPTS** the
 19 Report (Doc. No. 24) in its entirety. For the reasons stated in the Report, which is
 20 incorporated herein by reference, the Court **DISMISSES** the Petition **WITHOUT**
 21 **PREJUDICE**. (Doc. No. 1.) Should Petitioner choose to amend his Petition he must do
 22 so on or before June 25, 2010.

23 **IT IS SO ORDERED.**

24 DATED: May 24, 2010

25 
 26 _____
 27 Hon. Thomas J. Whelan
 28 United States District Judge